

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: Seppo POHJA <i>et al.</i>	Confirmation No.: 9647
Application No.: 10/811,314	Group Art Unit: 3689
Filed: March 26, 2004	Examiner: Paul R Fisher

For: **MARKETING USING DISTRIBUTED COMPUTING**

Commissioner for Patents
Alexandria, VA 22313-1450

APPEAL BRIEF

Dear Sir:

This Appeal Brief is submitted in support of the Notice of Appeal dated October 14, 2009.

I. REAL PARTY IN INTEREST

The real party in interest is Nokia Corporation, a corporation organized under the laws of Finland and having a place of business at Keilalahdentie 4, FIN-02150 Espoo, Finland. The above referenced patent application is assigned to Nokia Corporation.

II. RELATED APPEALS AND INTERFERENCES

Appellants are unaware of any related appeals and interferences.

III. STATUS OF THE CLAIMS

Claims 1-26 are pending in this appeal. No claim is allowed. This appeal is therefore taken from the final rejection of claims 1-26 on July 14, 2009.

IV. STATUS OF AMENDMENTS

All amendments have been entered.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The claimed invention addresses problems associated with distributed computing systems. In particular, in order to provide incentives to users to permit their computer systems to participate in such distributed computing schemes, user-perceivable experiences are provided to the users in such a manner that access to such user-perceivable experiences is governed based on a quantity of the distributed computing tasks performed by each contributing user.

Independent claim 1 provides for the following:

1. A method comprising:

sending processor-executable code to a plurality of users (See, e.g., Specification, ¶¶ [0006], [0023]-[0026]; Fig. 1 (Fig. 2), plurality of computing arrangements 104 (204); processing task 112 (212) includes set of processor-executable instructions);

requesting that the users run the processor-executable code on network-coupled computing arrangements accessible by the users (See, e.g., Specification, ¶¶ [0006], [0023]-[0026]; Fig. 1 (Fig. 2), plurality of computing arrangements 104 (204); processing task 112 (212) includes set of processor-executable instructions);

running the processor-executable code on each of the computing arrangements to perform distributed computing tasks on the computing arrangement, the distributed computing tasks working in concert to solve a computational problem (See, e.g., Specification, ¶¶ [0006], [0023]-[0026]; Fig. 1 (Fig. 2), plurality of computing arrangements 104 (204); processing task 112 (212) includes set of processor-executable instructions); tracking the distributed computing tasks performed by each contributing user (See, e.g., Specification, ¶¶ [0006]-[0012], e.g., in [0008], “distributed computing task operates in concert with other computing arrangements...to solve a computational problem”—each task must be “tracked” to solve the computational problem); and providing, as a result of reward for performing the distributed computing task, a user-perceivable experience via the computing arrangements, wherein the user-perceivable experience is configured for purposes of marketing the a commercial activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user (See, e.g., Specification, ¶¶ [0006]; [0033], [0050], [0055], [0062]; Fig. 4, step 410; Fig. 5, display 536; Fig. 6, interface module 640).

Independent claim 10 provides for the following:

10. A computer-readable medium having instructions stored thereon which are executable by a computing arrangement for performing:

performing a distributed computing task on a processor of the computing arrangement, wherein the distributed computing task is performed in concert with the one or more other computing entities to solve a computational problem (See, e.g., Specification, ¶¶ [0006]-

[0012], e.g., in [0008], “distributed computing task operates in concert with other computing arrangements...to solve a computational problem”); tracking the distributed computing tasks performed by a contributing user of the computing arrangement (See, e.g., Specification, ¶¶ [0006]-[0012], e.g., in [0008], “distributed computing task operates in concert with other computing arrangements...to solve a computational problem”—each task must be “tracked” to solve the computational problem); and providing, as a reward for performing the distributed computing task, a user-perceivable experience via an output of the computer arrangement, wherein the user-perceivable experience is configured for purposes of promoting a commercial marketing activity, and wherein access to user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by the contributing user (See, e.g., Specification, ¶¶ [0006]; [0033], [0050], [0055], [0062]; Fig. 4, step 410; Fig. 5, display 536; Fig. 6, interface module 640).

Independent claim 16 provides for the following:

16. A system comprising:

a plurality of network-coupled computing arrangements, each computing arrangement including a processor coupled to a memory (See, e.g., Specification, ¶¶ [0008], [0055]; Fig. 5, processor 530, memory 532), the memory containing instructions configured to cause the processor to, perform a distributed computing task on each computing arrangement, the distributed computing task operating in concert with other computing arrangements of the

plurality of computing arrangements to solve a computational problem (See, e.g., Specification, ¶¶ [0008], [0055]; Fig. 5);

track the distributed computing tasks performed by a contributing user of each computing arrangement (See, e.g., Specification, ¶¶ [0006]-[0012], e.g., in [0008], “distributed computing task operates in concert with other computing arrangements...to solve a computational problem”—each task must be “tracked” to solve the computational problem); and

initiate a user-perceivable experience on each computing arrangement as a reward for performing the distributed computing task, wherein the user-perceivable experience is related to a commercial marketing activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user (See, e.g., Specification, ¶¶ [0006]; [0033], [0050], [0055], [0062]; Fig. 4, step 410; Fig. 5, display 536; Fig. 6, interface module 640).

Independent claim 20 provides for the following:

20. An apparatus comprising:

a processor coupled to a memory and a user interface (See, e.g., Specification, ¶¶ [0008], [0055]; Fig. 5, processor 530, memory 532), wherein the processor causes the apparatus to,

perform a distributed computing task operating in concert with other computing arrangements of the plurality of computing arrangements to solve a computational problem (See, e.g., Specification, ¶¶ [0008], [0055]; Fig. 5);

track the distributed computing tasks performed by a contributing user of the apparatus (See, e.g., Specification, ¶¶ [0006]-[0012], e.g., in [0008], “distributed computing task operates in concert with other computing arrangements...to solve a computational problem”—each task must be “tracked” to solve the computational problem); and initiate a user-perceivable experience on the user interface of the computing arrangement as a reward for performing the distributed computing task, wherein the user-perceivable experience is related to a commercial marketing activity, and wherein access to user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by the contributing user (See, e.g., Specification, ¶¶ [0006]; [0033], [0050], [0055], [0062]; Fig. 4, step 410; Fig. 5, display 536; Fig. 6, interface module 640).

Independent claim 25 provides for the following:

25. A system comprising:

means for sending processor-executable code to a plurality of users (See, e.g., Specification, ¶¶ [0006], [0023]-[0026]; Fig. 1 (Fig. 2), plurality of computing arrangements 104 (204); processing task 112 (212) includes set of processor-executable instructions);

means for requesting that the users run the processor-executable code on network-coupled computing arrangements accessible by the users (See, e.g., Specification, ¶¶ [0006], [0023]-[0026]; Fig. 1 (Fig. 2), plurality of computing arrangements 104 (204); processing task 112 (212) includes set of processor-executable instructions);

means for performing a distributed computing task on each of the computing arrangements by running the processor-executable code on the computing arrangements, the distributed

computing tasks working in concert to solve a computational problem (See, e.g., Specification, ¶¶ [0006], [0023]-[0026]; Fig. 1 (Fig. 2), plurality of computing arrangements 104 (204); processing task 112 (212) includes set of processor-executable instructions);

means for tracking the distributed computing tasks performed by each contributing user (See, e.g., Specification, ¶¶ [0006]-[0012], e.g., in [0008], “distributed computing task operates in concert with other computing arrangements...to solve a computational problem”—each task must be “tracked” to solve the computational problem); and

means for providing, as a reward for performing the distributed computing task, a user-perceivable experience via the computing arrangements, wherein the user-perceivable experience is configured for purposes of marketing a commercial activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user (See, e.g., Specification, ¶¶ [0006]; [0033], [0050], [0055], [0062]; Fig. 4, step 410; Fig. 5, display 536; Fig. 6, interface module 640).

Independent claim 26 provides for the following:

26. A method comprising:

receiving processor-executable code at a computing arrangement capable of being coupled to a network (See, e.g., Specification, ¶¶ [0006], [0023]-[0026]; Fig. 1 (Fig. 2), plurality of computing arrangements 104 (204); processing task 112 (212) includes set of processor-executable instructions);

executing the processor-executable code the computing arrangement to perform a distributed computing task that works in concert with other computing arrangements to solve a computational problem (See, e.g., Specification, ¶¶ [0006], [0023]-[0026]; Fig. 1 (Fig. 2), plurality of computing arrangements 104 (204); processing task 112 (212) includes set of processor-executable instructions);

tracking the distributed computing tasks performed by a contributing user of the computing arrangement (See, e.g., Specification, ¶¶ [0006]-[0012], e.g., in [0008], “distributed computing task operates in concert with other computing arrangements...to solve a computational problem”—each task must be “tracked” to solve the computational problem); and

providing, as a reward for performing the distributed computing task, a user-perceivable experience via the computing arrangement for purposes of marketing a commercial activity, wherein access to user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by the contributing user (See, e.g., Specification, ¶¶ [0006]; [0033], [0050], [0055], [0062]; Fig. 4, step 410; Fig. 5, display 536; Fig. 6, interface module 640).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-26 are obvious under 35 U.S.C. § 103 based on *Shefchik* (“Every day, more PC users join in hunt for alien life”) in view of *Hubbard* (US 2001/0039497)?

VII. ARGUMENT**CLAIMS 1-26 ARE NOT RENDERED OBVIOUS BY SHEFCHIK AND HUBBARD BECAUSE NEITHER REFERENCE DISCLOSES OR SUGGESTS A USER-PERCEIVABLE EXPERIENCE BASED ON A QUANTITY OF DISTRIBUTED COMPUTING TASKS PERFORMED BY A CONTRIBUTING USER.**

The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention under any statutory provision always rests upon the Examiner. *In re Mayne*, 104 F.3d 1339, 41 USPQ2d 1451 (Fed. Cir. 1997); *In re Deuel*, 51 F.3d 1552, 34 USPQ2d 1210 (Fed. Cir. 1995); *In re Bell*, 991 F.2d 781, 26 USPQ2d 1529 (Fed. Cir. 1993); *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In rejecting a claim under 35 U.S.C. § 103, the Examiner is required to provide a factual basis to support the obviousness conclusion. *In re Warner*, 379 F.2d 1011, 154 USPQ 173 (CCPA 1967); *In re Lunsford*, 357 F.2d 385, 148 USPQ 721 (CCPA 1966); *In re Freed*, 425 F.2d 785, 165 USPQ 570 (CCPA 1970).

Each of independent claims 1, 10, 16, 20, 25, and 26 recites, in one form or another, that a distributed computing task is performed by each contributing user in a distributed computing system, and that a user-perceivable experience is provided as a reward for the distributed computing task, and that access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user. For example, claim 1 recites, *inter alia*, “providing, as a result of reward for performing the distributed computing task, a user-perceivable experience via the computing arrangements, wherein the user-perceivable experience is configured for purposes of marketing the a commercial activity, and **wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user.**”

The Examiner has acknowledged that this feature, along with the claimed “tracking” feature, is not disclosed by the primary reference to *Shefchik* (which describes the SETI@homeproject cited in paragraphs [0030] and [0032], for example, in the instant specification), and relies on *Hubbard* for such a teaching. In particular, the Examiner relies on page 4, paragraph [0052] and page 11, paragraph [0105] of *Hubbard* for a teaching that distributive networks can be used for marketing commercial activity, on page 13, paragraph [0123] for the tracking feature, and on page 7, paragraphs [0075]-[0077] for a reward based on the amount of work performed.

The Examiner then concluded that it would have been obvious to modify the distributive system of *Shefchik* with advertisements or other marketing tools and the use of rewards, as in *Hubbard*, for the purpose of utilizing the computing power of customers, while trying to market products to these customers because “this would allow the service provider the ability to harness this vast computing power at a minimal expense while still advertising products to the customer” since the addition of rewards or other incentives encourages users to participate and stay active, resulting in “a larger distributive computing network and allow for more tasks to be performed.”

Appellants disagree.

Paragraph [0123] of *Hubbard* teaches that the more idle a client system is, the more processing it is arguably able to accomplish and that it is advantageous to identify idle client systems and allocate them to more processor and time sensitive tasks. Paragraphs [0075]-[0077] of *Hubbard* teach that incentives should be offered to users of client systems to allow their capabilities to be used by control systems. Incentives may be provided to the user on participation sign-up, when the client system completes a workload, or at any other time during the process. Incentives may be based on the capabilities of the client systems, or based upon any

other desired criteria. Benchmark workloads are used to determine incentive values. A more capable client system would generate greater incentive values from executing the benchmark workload. The incentive values might be in the form of sweepstakes entries and tied to the system's performance of the benchmark workload.

However, the recognition that an idle computing system can perform more tasks and the recognition of using incentives based on the capabilities of systems, and that more capable client systems would generate more incentive values does not disclose, and is not suggestive of tying a reward to **“a user-perceivable experience that is governed based on a quantity of the distributed computing tasks performed by each contributing user.”**

Accordingly, since neither *Shefchik*, nor *Hubbard* discloses or suggests “providing, as a result of reward for performing the distributed computing task, a user-perceivable experience via the computing arrangements, wherein the user-perceivable experience is configured for purposes of marketing the a commercial activity, and **wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user,**” the Examiner has failed to establish a *prima facie* case of obviousness.

At pages 4-5 of the Final Action, the Examiner appears to recognize this lack of **“a user-perceivable experience that is governed based on a quantity of the distributed computing tasks performed by each contributing user”** in the applied references because the Examiner offers a tortured interpretation of **“a user-perceivable experience”** to the point of unreasonableness, in an attempt to justify the proposed improper combination of references. In particular, the Examiner identifies a definition of this term in the instant specification, as a “user-perceivable experience may be, for example, a graphic or video shown in a display,” employs a dictionary definition of “perceivable” as meaning “to attain awareness or understanding of,” “to

regard as such,” or “to become aware of through the senses,” and concludes from this that the user in *Hubbard* “can perceive or be aware of their entries into the sweepstakes which are based on the number of tasks they have performed for the distributive system. Which shows that the sweepstakes is in itself a user-perceivable experience since it can be shown to the user through a web interface” (Final Action-page 5).

As the Examiner has correctly asserted, the claimed “user-perceivable experience” may be “a graphic or video shown in a display.” As claimed, “access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user.” The entry into a sweepstakes as a reward for distributive processing is not a “user-perceivable experience” as it is not “a graphic or video shown in a display.” In any event, even if a user could visit a website in *Hubbard* to view a number of sweepstakes entries and even if the number of entries is based on a number of tasks performed, access to such a website to view the number of entries does not constitute “access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user” because a user can access the website at any time and such access to the website itself is clearly not “governed based on a quantity of the distributed computing tasks performed by each contributing user” even if the number of sweepstakes entries is interpreted as being “governed based on a quantity of the distributed computing tasks performed by each contributing user.”

Moreover, the fact that a sweepstakes entry may be awarded for a quantity of distributed computing tasks does not make the award of such sweepstakes entries “**a user-perceivable experience**” as the user is not perceiving any experience, as, for example, by viewing a graphic or a video, based on a number of sweepstakes entries or based on “a quantity of the distributed computing tasks performed by each contributing user.”

In neither *Shefchik* nor *Hubbard* is there any correlation between “a quantity of the distributed computing tasks performed by each contributing user” and “access to the user-perceivable experience,” as claimed.

Accordingly, the Examiner’s interpretation of *Hubbard*’s sweepstakes entries as being a “user-perceivable experience” and the Examiner’s conclusion of obviousness regarding the instant claimed subject matter, are unreasonable and, respectfully, flawed.

Again, neither *Shefchik* nor *Hubbard* discloses or suggests “providing, as a result of reward for performing the distributed computing task, a user-perceivable experience via the computing arrangements, wherein the user-perceivable experience is configured for purposes of marketing the a commercial activity, and **wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user.**” For this reason alone, the Honorable Board is respectfully requested to reverse the rejection of claims 1-26 under 35 U.S.C. § 103.

VIII. CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, Appellants request the Honorable Board to reverse the Examiner’s rejection.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

DITTHAVONG MORI & STEINER, P.C.

December 14, 2009

Date

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IX. CLAIMS APPENDIX

1. A method comprising:
sending processor-executable code to a plurality of users;
requesting that the users run the processor-executable code on network-coupled computing arrangements accessible by the users;
running the processor-executable code on each of the computing arrangements to perform distributed computing tasks on the computing arrangement, the distributed computing tasks working in concert to solve a computational problem;
tracking the distributed computing tasks performed by each contributing user; and
providing, as a result of reward for performing the distributed computing task, a user-perceivable experience via the computing arrangements, wherein the user-perceivable experience is configured for purposes of marketing the a commercial activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user.
2. The method of claim 1, wherein the computational problem comprises a processor-implemented creation of a product related to the commercial activity.
3. The method of claim 1, wherein the computational problem comprises rendering of video.
4. The method of claim 3, wherein the user-perceivable experience comprises displaying of rendered frames on the computing arrangements.
5. The method of claim 3, wherein the commercial activity comprises creation of a motion picture.

6. The method of claim 1, wherein two or more of the computing arrangements perform the distributed computing tasks in a peer-to-peer arrangement.

7. The method of claim 1, wherein the computing arrangements perform the distributed computing tasks in coordination with a centralized server arrangement.

8. The method of claim 1, wherein the distributed computing tasks include gathering input from the users of the computing arrangements.

9. The method of claim 1, wherein the distributed computing tasks include storing data on the computing arrangements.

10. A computer-readable medium having instructions stored thereon which are executable by a computing arrangement for performing:

performing a distributed computing task on a processor of the computing arrangement,

wherein the distributed computing task is performed in concert with the one or more other computing entities to solve a computational problem;

tracking the distributed computing tasks performed by a contributing user of the computing arrangement; and

providing, as a reward for performing the distributed computing task, a user-perceivable experience via an output of the computer arrangement, wherein the user-perceivable experience is configured for purposes of promoting a commercial marketing activity, and wherein access to user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by the contributing user.

11. The computer-readable medium of claim 10, wherein the computational problem comprises a processor-implemented creation of a product related to the commercial marketing activity.

12. The computer-readable medium of claim 10, wherein the computing arrangement is coupled to one or more of the computing entities in a peer-to-peer arrangement to perform the distributed computing task.

13. The computer-readable medium of claim 10, wherein the distributed computing task is performed in coordination with a centralized server arrangement.

14. The computer-readable medium of claim 10, wherein the distributed computing task includes gathering input from the user of the computing arrangement.

15. The computer-readable medium of claim 10, wherein the distributed computing task comprises storing data on the computing arrangement.

16. A system comprising:

a plurality of network-coupled computing arrangements, each computing arrangement including a processor coupled to a memory, the memory containing instructions configured to cause the processor to,

perform a distributed computing task on each computing arrangement, the distributed computing task operating in concert with other computing arrangements of the plurality of computing arrangements to solve a computational problem;

track the distributed computing tasks performed by a contributing user of each computing arrangement; and

initiate a user-perceivable experience on each computing arrangement as a reward for performing the distributed computing task, wherein the user-perceivable experience is related to a commercial marketing activity, and wherein access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user.

17. The system of claim 16, wherein the computational problem comprises a processor-implemented creation of a product related to the commercial marketing activity.

18. The system of claim 16, wherein two or more of the computing arrangements are coupled in a peer-to-peer arrangement to perform the distributed computing task.

19. The system of claim 16, further comprising a network-coupled centralized server arrangement, wherein the computing arrangements perform the distributed computing task in coordination with the centralized server arrangement.

20. An apparatus comprising:

a processor coupled to a memory and a user interface, wherein the processor causes the apparatus to,

perform a distributed computing task operating in concert with other computing arrangements of the plurality of computing arrangements to solve a computational problem;

track the distributed computing tasks performed by a contributing user of the apparatus;
and

initiate a user-perceivable experience on the user interface of the computing arrangement as a reward for performing the distributed computing task, wherein the user-

perceivable experience is related to a commercial marketing activity, and wherein access to user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by the contributing user.

21. The apparatus of claim 20, wherein the computational problem comprises a processor-implemented creation of a product related to the commercial marketing activity.

22. The apparatus of claim 20, wherein the apparatus is coupled to one or more of the computing entities in a peer-to-peer arrangement to perform the distributed computing task.

23. The apparatus of claim 20, wherein the apparatus performs the distributed computing task in coordination with a centralized server arrangement.

24. The apparatus of claim 20, wherein the apparatus comprises a mobile terminal.

25. A system comprising:

means for sending processor-executable code to a plurality of users;

means for requesting that the users run the processor-executable code on network-coupled computing arrangements accessible by the users;

means for performing a distributed computing task on each of the computing arrangements by running the processor-executable code on the computing arrangements, the distributed computing tasks working in concert to solve a computational problem;

means for tracking the distributed computing tasks performed by each contributing user; and

means for providing, as a reward for performing the distributed computing task, a user-perceivable experience via the computing arrangements, wherein the user-perceivable experience is configured for purposes of marketing a commercial activity, and wherein

access to the user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by each contributing user.

26. A method comprising:

receiving processor-executable code at a computing arrangement capable of being coupled to a network;

executing the processor-executable code the computing arrangement to perform a distributed computing task that works in concert with other computing arrangements to solve a computational problem;

tracking the distributed computing tasks performed by a contributing user of the computing arrangement; and

providing, as a reward for performing the distributed computing task, a user-perceivable experience via the computing arrangement for purposes of marketing a commercial activity, wherein access to user-perceivable experience is governed based on a quantity of the distributed computing tasks performed by the contributing user.

X. EVIDENCE APPENDIX

Appellants are unaware of any evidence that is required to be submitted in the present Evidence Appendix.

XI. RELATED PROCEEDINGS APPENDIX

Appellants are unaware of any related proceedings that are required to be submitted in the present Related Proceedings Appendix.